CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

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October 14, 2022

TO: Budget and Finance Committee

FROM: Budget and Legislative Analyst DY

SUBJECT: October 19, 2022 Budget and Finance Committee Meeting

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Item 1 **File 22-0970**	**Department:** Treasurer-Tax Collector

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance would extend the First Year Free Program through June 2023 and expand the program retroactively to November 1, 2021 by: (a) increasing the maximum amount of gross receipts in San Francisco for a business to qualify for the program from $2 million to $5 million; (b) removing the requirement that a qualifying business is located on the ground floor; and (c) increasing the amount of gross receipts above which the waiver would be retroactively revoked from $10 million to $15 million in the calendar year of, or in any of the three calendar years, following the date the business commenced business or opened a new location.

Key Points

- In July 2021, the Board of Supervisors approved legislation waiving first-year permit, license, and business registration fees for certain small businesses for a one-year period between November 2021 and October 2022 (File 21-0741). The goal of the waiver program, referred to as the "First Year Free Program," is to provide relief to small businesses during the City's recovery from the COVID-19 pandemic. The Treasurer-Tax Collector administers the First Year Free Program, which had enrolled 1,758 businesses as of October 10, 2022. The City has waived a total of $441,423 from November 2021 through August 2022 under the existing First Year Free Program.
- Under the current program, qualifying businesses are defined as businesses that (a) obtain a new business registration certificate between November 2021 and October 2022, (b) have $2 million or less in gross receipts in San Francisco, and (c) have a registered business location that is ground floor on a public right of way. Formula retail does not qualify for the program.
- The Treasurer-Tax Collector estimates that expanding eligibility to include businesses earning between $2 million and $5 million and extending the program through June 2023 would result in an additional 2,622 eligible businesses by the end of FY 2022-23.

Fiscal Impact

- We estimate the City could waive $3.5 million permit, license, and business registration fees in FY 2022-23 under the proposed expansion of the First-Year Free program.

Recommendation

- Because funding for the program is included in the Treasurer-Tax Collector budget, we recommend approval of the proposed ordinance.

MANDATE STATEMENT

City Charter Section 2.105 states that all legislative acts shall be by ordinance, approved by a majority of the members of the Board of Supervisors.

BACKGROUND

First Year Free Program

In July 2021, the Board of Supervisors approved legislation waiving first-year permit, license, and business registration fees for certain small businesses for a one-year period between November 2021 and October 2022 (File 21-0741). The goal of the waiver program, referred to as the "First Year Free Program," is to provide relief to small businesses during the City's recovery from the COVID-19 pandemic. The Treasurer-Tax Collector administers the First Year Free Program, which had enrolled 1,758 businesses as of October 10, 2022.

Program Eligibility

Both new small businesses and existing small businesses with new locations are eligible for fee waivers. According to the legislation, qualifying businesses are defined as businesses that (a) obtain a new business registration certificate between November 2021 and October 2022, (b) have $2 million or less in gross receipts in San Francisco, and (c) have a registered business location that is ground floor on a public right of way. Formula retail businesses, which are defined in Section 303.1 of the Planning Code as business that have eleven or more establishments with standardized features, do not count as qualified businesses.

The program does not apply to certain permits, licenses, and fees, such as state fees for police fingerprinting and hazardous materials. In addition, fee waivers may be revoked if a business that originally qualified for a fee waiver had more than $10 million in gross receipts in San Francisco in the calendar year of or in any of the three calendar years following the date the business commenced business or opened a new location.

Implementation

Businesses that meet program criteria are automatically prompted to opt-in to the program during the New Business Registration and Account Update application processes. New businesses complete the New Business Registration application and existing businesses opening a new location complete the Account Update application with the Treasurer Tax Collector. The Treasurer Tax Collector waives business registration fees for eligible businesses that opt-in to the program and created a lookup tool that enables other City departments that collect license and permit fees to validate eligibility for fee waivers. According to the First Year Free Program Report, departments submit monthly invoices detailing all fees waived due to the First Year Free Program to the Treasurer Tax Collector accounting team, which transfers the amount waived from the General Fund to the permitting department.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would extend the First Year Free Program through June 2023 and expand the program retroactively to November 1, 2021 by: (a) increasing the maximum amount of gross receipts in San Francisco for a business to qualify for the program from $2 million to $5 million; (b) removing the requirement that a qualifying business is located on the ground floor; and (c) increasing the amount of gross receipts above which the waiver would be retroactively revoked from $10 million to $15 million in the calendar year of, or in any of the three calendar years, following the date the business commenced business or opened a new location. In addition, the ordinance would revise the procedures for challenging Tax Collector determinations that a business improperly claimed a waiver and would make other administrative and reporting changes.

Reporting

The proposed ordinance would require the Treasurer Tax Collector to report on the program, including information on the number of qualified businesses by supervisorial district that received fee waivers, the types of businesses that received fee waivers, and the fees and total amounts waived through March 2023, by May 1, 2023. According to the Treasurer-Tax Collector's First Year Free Program Report, issued in April 2022, two-thirds of all fees waived for 504 enrolled businesses through February 2022 were for food services businesses, indicating that the program is particularly helpful to new restaurants.

FISCAL IMPACT

Actual Fees Waived Under Existing Program

The City has waived a total of $441,423 from November 2021 through August 2022 under the existing First Year Free Program. From November 2021 through June 2022, 1,085 businesses were enrolled in the First Year Free and the City waived $288,715. According to Amanda Fried, Chief of Policy and Communication at the Office of the Treasurer & Tax Collector, actual fees waived were less than the budgeted amount of $4 million in FY 2021-22 because the criteria was limiting, many businesses are able to open without seeking permits, and some building permits do not become payable until several months to a year after application. In July and August 2022, the City waived an additional $152,708. Exhibit 1 below shows the actual fees waived by department and fiscal year.

Exhibit 1: Actual Value of Fees Waived by Department

Department	FY 2021-22 8 Months Nov-Jun	FY 2022-23 2 Months Jul-Aug	Total	Percent of Total
Treasurer	$103,498	$65,477	$168,976	38%
Building Inspection	88,160	52,025	140,185	32%
Public Health	79,434	25,739	105,173	24%
Entertainment	9,670	5,246	14,916	3%
Public Works	2,569	3,224	5,793	1%
Planning	4,568	996	5,564	1%
Police	816	0	816	0%
Fire	0	0	0	0%
Totals	**$288,715**	**$152,708**	**$441,423**	**100%**

Source: Treasurer-Tax Collector

As shown above the top three departments with the highest amounts waived under the existing program, are the Treasurer Tax Collector (38 percent of total fees waived), the Department of Building Inspection (32 percent of total fees waived), and the Department of Public Health (24 percent of total fees waived).

Estimated Eligible Businesses Under Proposed Expanded Program

As mentioned above, 1,758 businesses were enrolled in the existing program as of October 2022. According to Amanda Fried, Chief of Policy & Communications at Treasurer-Tax Collector expanding eligibility to include businesses earning between $2 million and $5 million and extending the program through June 2023 would result in an additional 2,622 eligible businesses by the end of FY 2022-23, including:

- 1,627 new businesses or existing businesses with new locations commencing operations in FY 2022-23 with gross receipts of $2 million or less;
- 597 new businesses or existing businesses with new locations commencing operations in FY 2022-23 with gross receipts between $2 million and $5 million; and
- 398 new businesses or existing businesses with new locations commencing operations in FY 2021-22 with gross receipts between $2 million and $5 million that will be eligible for fee waivers retroactively.

However, the Treasurer-Tax Collector was unable to account for the expansion of eligibility beyond street facing establishments. Therefore, the actual increase in the number of eligible businesses could be more than 2,622.

Projected Fees Waived Under Proposed Expanded Program

Over the four-month period between March 2022 and June 2022, the City waived approximately $50 per eligible business per month. We estimate the City could waive $3.5 million in FY 2022-23, including the $152,708 waived in July and August 2022 and $50 per month per 4,380 eligible businesses (1,758 currently eligible and 2,622 newly eligible under the proposed ordinance) for

September through June 2022 and a 50 percent buffer to account for uncertainty. Even accounting for uncertainty in the number of eligible businesses and amount of fees waived, we determine that the FY 2022-23 program budget ($3.7 million) will be sufficient to cover costs in FY 2022-23.

Because funding for the program is included in the Treasurer-Tax Collector budget, we recommend approval of the proposed ordinance.

RECOMMENDATION

Approve the proposed ordinance.

Item 2 File 22-0975	Department: Real Estate Division (RED)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve the second amendment to the lease at 35 Onondaga Avenue between the City as landlord and Volunteers in Medicine, DBA Clinic by the Bay as tenant, increasing the City's share of tenant improvement costs by $460,594, from $1,660,000 to $2,120,594.

Key Points

- The City owns two properties at 35 and 45 Onondaga Avenue which are currently rented at below market-rate rent to Clinic by the Bay and ArtSpan, community-based non-profits that provide free medical services and community art and cultural space, respectively.
- The City initially agreed to reimburse the tenants $410,000 in tenant improvement costs. In 2019, the lease was amended and restated to increase the City's share of tenant improvements to $1,410,000, leaving $129,000 to be paid by the tenants. In 2021, the Board of Supervisors approved the first amendment to the lease, increasing the City's contribution for tenant improvements to $1,660,000 and the tenants' contribution to $471,111, due to additional water and mold damage discovered.
- During construction, the City determined that costs are greater than previously anticipated due to needed construction of a below ground vault for power supply conversion from Pacific Gas and Electric (PG&E) to the San Francisco Public Utilities Commission (SFPUC).

Fiscal Impact

- The proposed second amendment would increase the City's share of tenant improvements by $460,594, from $1,660,000 to $2,120,594. The Department of Public Health would contribute $260,000 to the project, and the SFPUC Power Enterprise would contribute $200,594.

Policy Consideration

- Because the City's costs to rent out the properties are greater than the below market-rate rental revenues, and because the Budget and Legislative Analyst has not received documentation for the added project costs, approval of the proposed resolution is a policy matter for the Board of Supervisors.

Recommendation

- Approval of the proposed resolution is a policy matter for the Board of Supervisors.

MANDATE STATEMENT

City Charter Section 9.118(c) states that any lease, modification, amendment or termination of a lease that had an initial term of ten years or more, including options to extend, or that had anticipated revenues of $1 million or more is subject to Board of Supervisors approval.

BACKGROUND

In December 2018, the Board of Supervisors approved a lease of City-owned property at 35 Onondaga Avenue with Volunteers in Medicine, DBA Clinic by the Bay, to operate a free primary care medical clinic (File 18-1095). In 2018, the Board of Supervisors approved a lease at the adjacent City-owned property at 45 Onondaga Avenue with ArtSpan (File 18-1094). Both leases are with non-profits for below market-rate rent. Clinic by the Bay and ArtSpan were selected through a public solicitation process.

The 2018 lease for 35 Onondaga stated that the City would cover $410,000 in tenant improvement costs for the two properties, and that the tenants would cover the remaining $1,590,000 in estimated tenant improvement costs. In 2019, the lease was amended and restated (File 19-0739), which increased the City's share of tenant improvements to $1,410,000, leaving $129,000 to be paid by the tenants. After the amended and restated lease was approved, the City discovered additional water and mold damage. In April 2021, the Board of Supervisors approved the first amendment to the lease, increasing the City's contribution for tenant improvements to $1,660,000 and the tenants' contribution to $471,111 (File 21-0190).[1] Over the initial 10-year terms of the two leases, the total rent paid to the City is $1,128,596. The rents are offset by (1) the tenant improvement allowance of up to $1,660,000, (2) potential annual rent abatements for repair and maintenance of the HVAC system, up to an estimated $188,099, and (3) a six-month waiver of base rent in the amount of $49,224 (File 19-0855), for a total offset of up to $1,897,323. The City's contribution for tenant improvements and rent abatements is approximately $768,727 greater than the rent paid by the tenants over 10 years. Tenant improvements are ongoing, and the tenants have not occupied the premises or paid rent to date.

During construction, the City determined that costs are greater than previously anticipated due to required new construction of a below ground vault for power supply conversion from Pacific Gas and Electric (PG&E) to the San Francisco Public Utilities Commission (SFPUC). SFPUC and the Department of Public Health (DPH) have agreed to share this cost, totaling $460,594.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the second amendment to the amended and restated lease at 35 Onondaga Avenue between the City as landlord and Clinic by the Bay as tenant, increasing the City's share of tenant improvement costs by $460,594, from $1,660,000 to $2,120,594.

[1] The Budget and Legislative Analyst's report for File 21-0190 stated that the tenants' contribution for tenant improvements was $739,438 based on incorrect estimates from April 2021.

City-owned buildings in San Francisco are typically powered by SFPUC's Hetch Hetchy Power. By converting from PG&E electrical service to Hetch Hetchy Power, the City would attain long-term energy cost savings for 35 and 45 Onondaga Avenue. Work will be completed by Nibbi Construction, the general contractor.

A letter from PG&E estimated costs for upgrading the existing electrical panel to cost approximately $84,114. The Budget and Legislative Analyst has not received documentation to justify the remaining additional cost of $376,480.

FISCAL IMPACT

The proposed second amendment would increase the City's share of tenant improvements by $460,594, from $1,660,000 to $2,120,594. DPH would contribute $260,000 to the project, and the SFPUC Power Enterprise would contribute $200,594. The change in City contributions is shown in Exhibit 1 below.

Exhibit 1: Change in City Share of Tenant Improvements

	Current	Proposed	Change
City Share	$1,660,000	$2,120,594	$460,594
Tenant Share	471,111	471,111	0
Total	**$2,131,111**	**$2,591,705**	**$460,594**

Source: Proposed Lease Amendment

Of the City's proposed $2,120,594 contribution, $1,920,000 would come from the City's General Fund, and $200,594 would come from the SFPUC Power Enterprise.

POLICY CONSIDERATION

The proposed second amendment would increase the City's share of tenant improvements to $2,120,594. In addition, the City has provided rent abatements of up to $237,323, for a total contribution of $2,357,917. This cost is more than twice the amount of $1,128,596 that would be received in rent from the two properties over ten years. Because the City's costs to rent out the properties are greater than the below market-rate rental revenues, and because the Budget and Legislative Analyst has not received documentation for the added project costs, approval of the proposed resolution is a policy matter for the Board of Supervisors.

RECOMMENDATION

Approval of the proposed resolution is a policy matter for the Board of Supervisors.

Item 3 **File 22-0931** *(Continued from 9/21/22 meeting)*	**Department:** City Attorney's Office (CAT), Real Estate Division (RED)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve the Fifth Amendment to the lease between SFII 1390 Market St., LLC as landlord and the City Attorney's Office as tenant for approximately 75,137 square feet at 1390 Market Street, extending the term by 10 years through December 2032, with one five-year option to extend through December 2037, for initial annual rent of $4,959,042, with three percent annual increases, and continuing the use of a portion of the premises for childcare services.

Key Points

- The City Attorney's Office has leased office space at 1390 Market Street since the 1980s. The current lease was approved by the Board of Supervisors in 2000 and has been amended four times to extend the term, increase the premises, and increase the rent amount. The lease expires December 31, 2022, and the Real Estate Division (RED) has negotiated a lease amendment with the landlord to extend the term 10 years through December 2032.
- Under the proposed Fifth Amendment, the City Attorney's Office would relocate their existing space on the 10th floor to the 4th floor, expanding the premises to 75,137 square feet. The landlord would provide renovations to the new and existing 4th floor spaces and four months of rent abatement, together an approximately $2 million contribution. An appraisal conducted by the Dore Group and an appraisal review conducted by Colliers International have affirmed that the initial annual rental rate of $66 per square foot is fair market rent.
- At the recommendation of the Budget & Legislative Analyst, the Board of Supervisors requested the Real Estate Division complete an analysis of fiscal feasibility of relocating City tenants at 1390 Market Street to City owned space. The Director of Property provided our office with an overview of the draft analysis, which found that continuing the City's leases at 1390 Market Street was less expensive than purchasing a site in the Civic Center area.

Fiscal Impact

- Under the proposed Fifth Amendment, the City Attorney's Office would pay initial annual rent of $66 per square foot with three percent annual increases. Over the 10-year term of the lease extension, the City Attorney's Office would pay $55,196,845 in total rent. Costs would be funded by the General Fund.
- Beginning in Year 2 of the lease extension, the City Attorney's Office would pay a portion of the increase to the operating expenses of the commercial portion of the building over the new base year (2023).

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

City Administrative Code 23.27 states that any lease with a term of one year or longer and where the City is the tenant is subject to Board of Supervisors approval by resolution. A third-party appraisal is required for leases in which the rent exceeds $45 per square foot per year, and an appraisal review is required for leases in which the rent exceeds $60 per square foot.

BACKGROUND

The City Attorney's Office has leased office space at 1390 Market Street since the 1980s. In May 2000, the Board of Supervisors approved the City Attorney Office's current lease at 1390 Market Street, for approximately 62,814 square feet of office space, for a term of seven years, from January 2001 through December 2007, with one five-year option to extend through December 2012 (File 00-0851). In June 2006, the City Attorney's Office executed the First Amendment to the lease, which set the parameters for relocating to new space within the building, at the request of the landlord, and reduced the rent for the option term. In May 2007, the Board of Supervisors approved the Second Amendment to the lease, exercising the five-year option to extend the lease through December 2012, and increasing the leased space to 68,783 square feet (File 07-0506). In May 2012, the Board of Supervisors approved the Third Amendment to the lease, extending the term by five years through December 2017, granting the City two additional five-year terms to extend through December 2027, and expanding the leased space to 69,402 square feet (File 12-0280). In June 2017, the Board of Supervisors approved the Fourth Amendment to the lease, exercising the first five-year option to extend through December 2022. The leased premises include approximately 1,737 square feet of space used for infant and toddler care services.

The lease expires December 31, 2022. The Real Estate Division (RED) has negotiated a lease amendment to extend for an additional 10 years through December 2032, and to relocate office space from the 10th floor to the 4th floor, expanding the premises to approximately 75,137 square feet.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the Fifth Amendment to the lease between SFII 1390 Market St., LLC as landlord and the City Attorney's Office as tenant for approximately 75,137 square feet of office space at 1390 Market Street, extending the term by 10 years through December 2032, with one five-year option to extend through December 2037, for initial annual rent of $4,959,042, with three percent annual increases, and continuing the use of a portion for childcare services. The proposed resolution would also allow the Director of Property to enter into immaterial amendments to the lease or the day care license.

Under the proposed Fifth Amendment, the City Attorney's Office would relocate leased space from the 10th floor to the 4th floor, expanding the leased premises from approximately 69,402 to 75,137 square feet. According to Andrico Penick, Director of Real Estate, the move is mutually beneficial in that it allows the City Attorney's Office to consolidate its office space from the 4th through 7th floors while allowing the landlord to market the more attractive 10th floor space to a new tenant. The landlord would build out the 4th floor space to the City Attorney's Office specifications and refurbish the existing 4th floor space with new paint and carpeting at the landlord's expense. According to Director Penick, the cost of the improvements and four months of rent abatement is valued at approximately $2 million. This contribution is provided to the City Attorney's Office in exchange for the stability of a 10-year lease term, which is five years longer than the five-year option included in the existing lease. Director Penick anticipates that the 4th floor improvements will be complete by mid-January 2023.[1]

The proposed Fifth Amendment would have an initial annual rent of $66 per square foot ($5.50 per square foot per month), with three percent annual increases thereafter. This is a reduction of $3.99 per square foot from the current rental rate of $69.99 per square foot. An appraisal conducted by the Dore Group and an appraisal review conducted by Colliers International have affirmed that the annual rental rate of $66 per square foot is fair market rent. Starting in the second year of the lease extension, the City Attorney's Office would resume paying a share of the increase of the building's commercial operating expenses over the new 2023 base year, which includes property taxes, insurance, maintenance, repairs, utilities, waste disposal, janitorial services, and security. With the expanded premises, the City Attorney's Office's share of the increase of the building's operating expenses would increase from 31.75 percent to 34.74 percent.

The key terms of the proposed Fifth Amendment are shown in Exhibit 1 below.

Exhibit 1: Key Terms of Proposed Lease Amendment

Premises	75,137 square feet
Initial Annual Rent	$4,959,042 ($66 per square foot)
Rent Adjustment	3% annual increase
Term	10 years (January 2023 – December 2032)
Options to Extend	One 5-year option (through December 2037)
Building Expenses	City pays proportional share (34.74%) starting year 2 of the lease, of the increase over the base year (expenses include property taxes, insurance, maintenance, repairs, utilities, waste disposal, janitorial services, and security)
Rent Abatement	4 months abated (value of $1,653,014)
Tenant Improvements	New carpeting and painting on 4th floor Existing Premises, relocation of servers and City's furniture, fixtures and equipment including files and personal property on 10th floor, buildout of the new 4th Floor Expansion Space to City specifications, paid by landlord (valued at approximately $350,000)
Option to Purchase	City has right of first refusal if the Landlord offers the Office Condominium up for sale. This right does not apply if the Landlord offers its entire Portfolio consisting of 4 condominiums up for sale.

Source: Proposed Lease

[1] If the 4th floor improvements are not complete by the lease commencement date, the City Attorney's Office would pay the proposed rate of $5.50 per square foot per month for the current leased premises of 69,402 square feet.

Under the proposed Fifth Amendment, the City Attorney's Office would continue to lease approximately 1,737 square feet on the ground floor for use as a childcare facility. The space was previously used by Marin Day Schools but closed due to lack of enrollment because of the COVID-19 pandemic and shelter-in-place order. According to Director Penick, the City Attorney's Office and RED plan to issue a Request for Proposals (RFP) by the end of 2022 to select a new operator for the childcare facility as well as the closed childcare facility in City Hall. The childcare facility was previously rented to Marin Day Schools for the nominal rate of $1 per year, and the proposed resolution requires that the City will continue to rent the space at $1 per year to a childcare provider.

Rent vs. Buy

The proposed Fifth Amendment would also provide the City with the first right to purchase if the landlord were to sell the office condominium.

At the recommendation of the Budget & Legislative Analyst, File 20-1394, a resolution approving a lease at 1390 Market Street for the Department of Children, Youth, & Their Families (DCYF), was amended to request the Real Estate Division provide an analysis on the fiscal feasibility of moving the City tenants (DCYF and CAT) at 1390 Market Street into existing City-owned office space or purchasing and/or developing new City-owned office space, to allow for termination of the City's leases in that building. As of this writing, the report has been drafted but is not yet final. The Director of Property provided our office with an overview of the draft analysis, which found that continuing the City's leases at 1390 Market Street was less expensive than purchasing a site in the Civic Center area, after accounting for market conditions, moving costs, tenant improvements, and debt service on a building purchase. A final version of the report is expected to be released prior to the September 21, 2022 Budget & Finance meeting.

FISCAL IMPACT

Under the proposed Fifth Amendment, the City Attorney's Office would pay initial annual rent of $4,959,042 ($66 per square foot), with four months of rent abated, and three percent annual increases. Over the initial 10-year term, the total rent paid would be $55,196,845 and are paid by the General Fund. Annual rents are shown in Exhibit 2 below.

Exhibit 2: Annual Rent under Proposed Lease Amendment

Year	Rent per Square Foot	Annual Rent
Year 1	$66.00	$3,306,028[2]
Year 2	67.98	5,107,813
Year 3	70.02	5,261,048
Year 4	72.12	5,418,879
Year 5	74.28	5,581,445
Year 6	76.51	5,748,889
Year 7	78.81	5,921,355
Year 8	81.17	6,098,996
Year 9	83.61	6,281,966
Year 10	86.12	6,470,425
Total		**$55,196,845**

If the five-year option to extend is exercised, the rent for the extension term after year 10 would be adjusted to 95 percent of the then-prevailing fair market rent.

As mentioned above, beginning in Year 2 of the lease extension, the City Attorney's Office would pay a portion of the increase to the operating expenses of the commercial portion of the building over the new base year (2023). As the 2023 operating expenses for the building are currently unknown, future increases cannot be projected at this time. In 2022, the City Attorney's Office pays $291,030 in annual operating expenses.

RECOMMENDATION

Approve the proposed resolution.

[2] Year 1 includes four months of rent abatement.

Item 5 **File 22-0268** *(Continued from July 13, 2022 meeting)*	**Department:** Department of the Environment (ENV)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would authorize the Department of the Environment to: (1) accept and expend a grant in an amount not to exceed $2,384,797 from the California Energy Commission (CEC) Alternative and Renewable Fuel and Vehicle Technology and (2) authorizes the Department of Environment to execute agreements related to the grant.

Key Points

- The proposed grant would fund two projects: (1) installation of at least one fast charging plaza in a disadvantaged community and eight fast electric vehicle charging stations and (2) a pilot program to provide electric bicycles to 35 app-based delivery workers to use in making their deliveries.
- The Department of Environment plans to contract with EVgo, a business based in Los Angeles, CA, to construct and operate the fast charging plaza and stations and with GRID Alternatives, a non-profit based in Oakland, CA, to manage the electric bicycle program. In addition, the Department intends to create a map tool to show existing electric vehicle charging stations and obtain input on future stations.

Fiscal Impact

- The total cost of the projects is $3.4 million. The proposed grant would provide $2.4 million while matching funds from Google, EVgo, the San Francisco Local Agency Formation Commission, the Department of Environment, and the San Francisco Public Utilities Commission total $1.0 million to cover the remaining costs. The grant funds 2.47 FTE at the Department of Environment to manage and provide analytical support to the projects.

Policy Consideration

- The Department of Environment selected EVgo and GRID Alternatives as grant co-applicants because of their experience on related projects that were publicly funded. Under the grant budget, the organizations will receive $1 million in grant funds. While there is no requirement to select grant co-applicants through a competitive process, because this proposed grant can only funds projects that were identified in a 2019 planning document, which contemplated applying for additional State funding, we believe the Department could have completed a request for qualifications or similar competitive process to identify partners to implement strategies prior to the proposed grant's application deadline.

Recommendation

- Approval of the proposed resolution is a policy matter for the Board of Supervisors.

MANDATE STATEMENT

City Administrative Code Section 10.170-1 states that accepting Federal, State, or third-party grant funds in the amount of $100,000 or more, including any City matching funds required by the grant, is subject to Board of Supervisors approval.

City Charter Section 9.118(a) states that contracts entered into by a department, board, or commission that (i) have anticipated revenues of $1 million or more, or (ii) have anticipated revenues of $1 million or more and require modifications, are subject to Board of Supervisors approval.

BACKGROUND

As directed in Executive Order B-48-18, California established a goal in 2018 to increase the number of zero-emission vehicles on the road from approximately 1.3 million as of December 2018 to five million by 2030 and achieve 250,000 electric vehicle charging stations by 2025. To meet this goal, in April 2018, the California Energy Commission (CEC) awarded nine cities and organizations approximately $1.8 million for Phase 1 of the Electric Vehicle Ready Community Challenge. The Challenge is funded by CEC's Alternative and Renewable Fuel and Vehicle Technology Program. Phase 1 of the program focused on grantees developing a city-wide planning document to expand public electric vehicle (EV) charging and other modes of clean transportation. The Department of the Environment was one of the awardees of the CEC's Phase 1 grant. Consequently, in October 2018, the Board of Supervisors approved the Department of Environment to accept and expend a grant in the amount of $199,398 from the CEC's Alternative and Renewable Fuel and Vehicle Technology Program to develop an Electric Vehicle Ready Blueprint to accelerate regional vehicle electrification for the period of July 1, 2018, through June 30, 2019 (File 18-0740). San Francisco's Electric Vehicle Ready Community Blueprint planning document was finalized in July 2019.

In September 2021, the CEC announced awards for Phase 2 of the Electric Vehicle Ready Communities Challenge to fund implementation projects developed and identified in Phase 1, Blueprint Development of the Electric Vehicle Ready Communities Challenge. The Department of the Environment was awarded $2,384,797 to implement high priority projects identified in Phase 1, which included increasing public awareness of electric vehicles and expanding charging infrastructure and other modes of clean transportation.

According to the July 2019 San Francisco Electric Vehicle Ready Community Blueprint, there are 700 electric vehicle charging ports or 0.7 ports per electric vehicle registered in San Francisco, the majority of which are privately owned and managed.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the Department of the Environment to: (1) accept and expend a grant in an amount not to exceed $2,384,797 from the CEC Alternative and Renewable

Fuel and Vehicle Technology Program for the period of August 1, 2022 through March 29, 2024 and (2) authorizes the Department of Environment to execute agreements related to the grant.

The CEC's Alternative and Renewable Fuel and Vehicle Technology Program grant solicitation required a minimum 25 percent total match share as a condition of application and subsequent award, which the Department of the Environment meets through its total match funding of $1,013,198 from the Department, SFPUC, Google, EVgo, and the San Francisco Local Agency Formation Commission, which is 29.8 percent of the project cost. According to the CEC grant solicitation, matching funds include cash or in-kind contributions provided by the recipient, subcontractors, or other parties.

According to Lowell Chu, EV Program Manager, the Department intends request the California Energy Commission extend the grant term through Fall 2024 in order to provide for a two-year term. The grant agreement was originally anticipated to begin in March 2022 but has been awaiting approval of the Board of Supervisors due to the Department's procurement decisions, discussed below.

Services Provided

The CEC's Alternative and Renewable Fuel and Vehicle Technology Program grant funds will be primarily used to implement the following CEC Electric Vehicle Ready Communities Phase II strategies: (1) expanding electric vehicle charging infrastructure; (2) increasing public awareness of electric vehicles; (3) accelerating transportation mode shift by establishing a pilot for app-based workers to use electric bicycles to make deliveries, and (4) provide a mapping tool for electric vehicle charging infrastructure.

<u>EV Fast Charging Plaza & Stations</u>

The proposed scope of work includes construction of one EV fast charging plaza in a designated Disadvantaged Community[1] and eight fast chargers[2] in San Francisco. An EV fast charging plaza is a location open to the general public that contains fast charging stations. An EV charging station is equipment that transfers electricity to an electrical vehicle. According to EV Program Manager Chu, possible locations include South of Market, Civic Center, and Bayview-Hunters Point.

The Department of Environment plans to contract with EVgo, a business based in Los Angeles, to construct and operate the fast charging plaza and stations. According to EV Program Manager Chu, EVgo was selected as a grant co-applicant by the Department of the Environment because of their experience in building electric vehicle fast charging plazas and past projects that were

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[1] Disadvantaged communities are defined as the top 25 percent scoring areas from CalEnviroScreen (a mapping tool that helps identify California communities that are most affected by many sources of pollution, and where people are often especially vulnerable to pollution's effects) along with other areas with high amounts of pollution and low populations.

[2] Fast chargers, or stations, are devices for charging electric vehicles that are rated between 7kW and 22kW of electricity. They draw electrical current from the grid and supply the current through a cord and connector into the vehicles' batteries at higher rates than mid- and low-level chargers.

funded by the Bay Area Air Quality Management District, California Air Resources Board, and California Energy Commission.

The grant budget also includes $150,000 to hire a community-based organization to engage residents and businesses in neighborhoods that would be impacted by the new charging plaza and fast-chargers. The community-based organization would also gather information from the communities on how to improve access to public charging and increase electric vehicle uptake.

E-Bicycles

The grant will also fund a pilot program to provide electric bicycles to 30 app-based delivery workers to use in making their deliveries instead of using personal vehicles. The program will collect data from delivery workers on how the bicycles are used and the capabilities of electric bicycles for completing local food deliveries and may help inform a larger pilot program in the future. Participants will be able to keep the electric bike after completion of the pilot program.

The E-Bicycle pilot will be administered by GRID Alternatives, a non-profit based in Oakland. GRID Alternatives will be responsible for procuring, maintaining the e-bikes, and selecting delivery workers for the pilot. According to EV Program Manager Chu, GRID Alternatives was selected as a grant co-applicant by the Department of the Environment because of their experience in implementing similar e-bike programs in the Cities of Berkeley and Oakland. Additionally, GRID Alternatives was selected because of their successes of winning California Energy Commission grants.

App-based data collection and reporting will be completed by Driver's Seat Cooperative, a business organization, and safety training will be provided by the San Francisco Bicycle Coalition, a non-profit organization.

Mapping

The grant will also fund the Department of the Environment's public-private partnership[3] with Google to enhance the online Electric Vehicle Mapping Tool designed in Phase I for use by the public and charging site developers. According to EV Program Manager Chu, the proposed new electric vehicle module within the online tool will show users where existing public charging locations and stations are available in the City and allow users to indicate where they would like to see new public charging locations and stations.

The Department will collaborate with Google to launch the Electric Vehicle Mapping Tool in January 2023. Concurrently, the Department plans to open the required charging stations by the end of March 2024.

[3] Google is the technical lead (coding, prototyping, etc.) on the online tool, and the Department of the Environment provides input on user experience and testing.

Department of Environment Staff

The following 2.47 FTE of existing positions will be funded by the CEC grant: 0.25 FTE 5644 Environmental Principal, 1.0 FTE 5642 Environmental Specialist, and two 5640 Environmental Specialists (1.22 FTE).

- The 5644 Environmental Principal responsibilities include the following: (1) grant administration, invoicing, reporting and point of contact for the grant funder, (2) lead the hiring, onboarding and development of the 5642 Electric Vehicle Ombudsperson, and (3) serve as the project leader.
- The 5642 Environmental Specialist will serve as the Electric Vehicle Ombudsperson to manage the fast charging and e-bicycle projects and launch the electric bicycle pilot in September 2022.
- The two 5640 Environmental Specialists responsibilities include the following: (1) one position will serve as the project leader responsible for the development of the Electric Vehicle Mapping Tool and (2) another position will serve as the project leader for the implementation of the e-bicycle pilot program.

Performance Monitoring

The California Energy Commission's Alternative and Renewable Fuel and Vehicle Technology Program grant funds are subject to compliance with standard reporting and monitoring requirements, such as monthly phone calls and quarterly progress reports for the duration of the grant. Data collection and quarterly reporting requirements for the grant project include reporting on the following:

1) Significant milestones and accomplishments;
2) Challenges and potential agreement changes;
3) Report on subrecipients and vendors;
4) Status of milestones and deliverables;
5) Pictures and identifying information of installed or delivered equipment;
6) Fiscal status of project funds; and
7) Evaluation of E-Bike pilot to assess impact on vehicles miles traveled and worker earnings

FISCAL IMPACT

The total budget for the CEC Electric Vehicle Ready Communities Phase 2 – Blueprint Implementation grant project is $3,397,997. The CEC grant will fund $2,384,799, and matching funds from Google, EVgo, the San Francisco Local Agency Formation Commission, and the SFPUC total $1,013,198. The source of the SFPUC's matching funds is the Power Enterprise's Utility Distribution Engineering funds, which is funded by Power Enterprise's capital funds. The source of the Department of Environment's matching funds is the San Francisco Clean Cities Coalition, which is a program of the U.S. Department of Energy.[4]

Exhibit 1 below shows the total costs for the CEC Electric Vehicle Ready Communities Phase 2 – Blueprint Implementation project.

Exhibit 1. CEC Electric Vehicle Ready Communities Phase 2 – Blueprint Implementation Project Costs

Cost Category	Proposed CEC Grant Funds	Matching Funds	Total ($)
Direct Labor	$615,181	$62,069	$677,250
Fringe Benefits	269,331	27,931	297,262
Subtotal, Labor	*$884,512*[5]	*$90,000*[6]	*$974,512*
Materials/Miscellaneous[7]	24,691	0	24,691
Subcontractors			2,155,523
EvGo	526,141	634,390	1,160,531
GRID Alternatives	469,684	0	469,684
Driver's Seat Coop.	80,000	0	80,000
SF Bike Coalition	6,500	0	6,500
Outreach Org TBD	150,000	0	150,000
Google (Map Tool)	0	150,000	150,000
Subtotal, Subcontractors	*$1,232,325*	*$784,390*	*$2,016,715*
SFPUC Technical Assistance	0	125,308	125,308
LAFCo Technical Assistance	0	13,500	13,500
Indirect Costs (18%)[8]	243,271	0	243,271
Total Cost	**$2,384,799**	**$1,013,198**	**$3,397,997**

Source: Department of the Environment

[4] Administered and implemented by the Department of the Environment, the San Francisco Clean Cities Coalition works with vehicle fleets, fuel providers, community leaders, and other stakeholders to save energy and promote the use of domestic fuels and advanced clean vehicle technologies in transportation.

[5] The following positions will be funded by the CEC grant: 0.25 FTE 5644 Environmental Principal, 1.0 FTE 5642 Environmental Specialist (two-year term for Electric Vehicle Ombudsperson), and two 5640 Environmental Specialists (2.0 FTE).

[6] A 5640 Environmental Specialist will be partially funded using Department of the Environment funds of $90,000. See Exhibit 2 for details.

[7] This includes additional database licenses and upgrades, graphics and report production, bicycle safety helmets, raincoats, panniers and security locks, and incentives for participants to share data and opinions on using electric bicycles for deliveries.

[8] The 18% rate was calculated using the 2 Step Method of the U.S Office of Management and Budget. The amount was calculated multiplying for the estimated hours to be performed by staff times the labor rate times 18%.

Exhibit 2 below details the total matching funds budget of $1,013,198 for the project.

Exhibit 2. Matching Funds Budget for CEC Electric Vehicle Ready Communities Phase 2 – Blueprint Implementation Project

Funder	Purpose	Match Amount
EVgo	Build charging plaza in or adjacent to a disadvantaged community	$634,390
Google	Enhance, update and maintain the Blueprint Mapping Tool, provide data collection and digital analysis	150,000
SFPUC	Provide technical assistance with electric bicycle pilot and assist with establishing the Electric Vehicle Ombudsperson	125,308
Department of the Environment	Conduct stakeholder engagement via Clean Cities Coalition's "Listening Sessions" (through helping to fund a 5640 Environmental Specialist)	90,000
SF Local Agency Formation Commission	Provide technical assistance to the electric bicycle pilot project	13,500
	Total Matching Funds	**$1,013,198**

Source: Department of the Environment

According to EV Program Manager Chu, no grant funds have been encumbered or expended. The Department of the Environment does not anticipate incurring any ongoing staff costs once the project is complete and grant funds expire. The 2.47 FTE positions funded by this grant are temporary exempt positions. Once the project is over, the positions will be either be terminated or funded by other grants or sources of funding if available.

EV Fast Charging Plaza & Stations

According to EV Program Manager Chu, the cost to build one fast charging plaza and installing eight (8) stations is $1.16 million. CEC grant funding totals $526,141, and EVgo's match is $634,390. Ongoing maintenance costs for the grant-funded EV charging plaza will be paid for by EVgo.

E-Bicycles

According to EV Program Manager Chu, the cost of purchasing, shipping, temporary storage, assembly, and road-testing of 30 e-bikes with data and safety equipment is $80,000 and will be paid for by the proposed grant. GRID Alternatives is responsible for obtaining the e-bikes and will complete its own procurement process to obtain them. The projected total maintenance cost of the e-bikes through the grant period is $2,000. At the end of the grant term, GRID Alternatives will no longer be responsible for maintaining the e-bikes, which will be property of the program participant (app-based delivery work). Ongoing maintenance costs are estimated to be zero.

POLICY CONSIDERATION

As noted above, the Department of Environment selected EVGo and GRID Alternatives as grant co-applicants because of their related experience on similar projects that were publicly funded. As co-applicants, the organizations will receive $1 million of the grant funds. In addition, Drivers Seat Cooperation, the San Francisco Bicycle Coalition, and a yet to be determined community-based organization will collectively receive approximately $230,000 in grant funds to provide training, analysis, and outreach for the e-bike pilot program.

There is no requirement for a competitive process to select grant co-applicants and the Department stated it did not have time to complete a competitive solicitation process during the two-month window (August 12, 2020 to October 23, 2020) that the grant was open for proposals. However, because this proposed grant can only funds projects that were identified in the Department's Electric Vehicle Ready Community Blueprint from July 2019, a document which contemplated applying for additional State funding, we believe the Department could have completed a request for qualifications or similar competitive process to identify partners to implement strategies in the 2019 Blueprint prior to the proposed grant's application deadline. We are therefore considering approval to be a policy matter for the Board of Supervisors.

RECOMMENDATION

Approval of the proposed resolution is a policy matter for the Board of Supervisors.

Item 11 **File 22-0974**	**Department:** Municipal Transportation Agency (MTA)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve the seventh amendment to the towing services contract between San Francisco Municipal Transportation Agency (SFMTA) and TEGSCO, LLC, increasing the not-to-exceed amount by $49,000,000, for a total not to exceed $137,200,000.

Key Points

- In 2016, after a competitive solicitation process, the Board of Supervisors approved a five-year towing services contract with TEGSCO. The contract has since been amended six times and extended five years through March 2026. However, the not-to-exceed amount of $88,200,000 does not provide funding for the final three years of the contract, as SFMTA wanted time to evaluate COVID-19 impacts and the program's policies and costs. Due to higher than projected towing activity, SFMTA anticipates that the existing contract spending authority will be exhausted in January 2023.
- Under the contract, TEGSCO collects fees from the owners of towed vehicles and remits those fees to SFMTA. SFMTA then pays TEGSCO a fixed management fee and reimburses TEGSCO for towing and related services, including a per tow charge paid to tow truck subcontractors. SFMTA rents a short-term facility for TEGSCO at 450 7th Street and a storage, office, and auction facility at 2650 Bayshore Boulevard in Daly City.

Fiscal Impact

- The proposed seventh amendment would increase the not-to-exceed amount of the TEGSCO contract by $49,000,000, for a total not to exceed $137,200,000. In addition to the contract costs, the tow program costs include rent and SFMTA administrative costs. Over the 10-year contract, actual and projected tow program costs are approximately $276,452,437 and revenues are approximately $210,606,452, for total net program costs to SFMTA of approximately $65,845,984.

Policy Consideration

- SFMTA analysis notes that its towing program costs are high. Reducing program costs could allow SFMTA to reduce program fees and/or free up revenues to be used for other transportation programs.

Recommendations

- Approve the proposed resolution.
- Request SFMTA to complete an analysis of towing program costs that includes: (1) administrative and enforcement costs, (2) overhead costs, and (3) rental costs, including feasibility of moving operations to City-owned property prior to submitting a new towing services contract to the Board for approval.

MANDATE STATEMENT

City Charter Section 9.118(b) states that any contract entered into by a department, board or commission that (1) has a term of more than ten years, (2) requires expenditures of $10 million or more, or (3) requires a modification of more than $500,000 is subject to Board of Supervisors approval.

BACKGROUND

In June 2015, the San Francisco Municipal Transportation Agency (SFMTA) issued a Request for Proposals (RFP) to select a towing service provider. TEGSCO, LLC, previously doing business as San Francisco AutoReturn, which had provided the service since 2004, was deemed the highest scoring responsive and responsible proposer and was awarded a contract. In March 2016, the Board of Supervisors approved a five-year contract with TEGSCO, from April 2016 through March 2021, for an amount not to exceed $65,400,000, and an option to extend an additional five years through March 2026 (File 16-0134).

Under the contract, TEGSCO provides customer service for towed vehicles, 24/7 tow truck dispatching, vehicle storage, and lien processing and vehicle auctions. An appendix to this report details the reasons for vehicle tows this year and the past three years.

The TEGSCO contract has been amended six times, as follows:

1. The first amendment, approved by the SFMTA Board in September 2016, allowed TEGSCO to use the short-term storage facility at 450 7th Street.
2. The second amendment, approved by the Director of Transportation in July 2019, documented service requirement adjustments to customer service and tow request response times and provided clarification on the process to calculate annual Consumer Price Index (CPI) increases for management and variable fees paid to TEGSCO.
3. The third amendment, approved by the Board of Supervisors in April 2021, exercised the five-year option to extend and increased the not-to-exceed amount by $22,800,000, for a total not to exceed $88,200,000 (File 21-0175).
4. The fourth amendment, approved by the Director of Transportation in April 2022, changed the doing-business-as name from San Francisco AutoReturn to TEGSCO and amended provisions relating to management of confidential information and City data.
5. The fifth amendment, approved by the Director of Transportation in April 2022, authorized TEGSCO to use a Verification Database to verify the eligibility of tow customers for income-based fee reductions and waivers.
6. The sixth amendment, approved by the Director of Transportation in June 2022, allowed for the option of using internet-based platforms for vehicle auctions.

The third amendment, which increased the not-to-exceed amount to $88,200,000, intended to provide sufficient spending authority for the first two years of the extension term, through March 2023. This provided time for SFMTA to reevaluate the towing program's policies and costs as the

City emerges from the COVID-19 pandemic. However, due to higher than projected towing activity, SFMTA anticipates that the existing contract spending authority will be exhausted in January 2023.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the seventh amendment to SFMTA's towing contract with TEGSCO, increasing the not-to-exceed amount by $49,000,000, for a total not to exceed $137,200,000. Other contract terms would not change.

The proposed increase of $49,000,000 would provide funding through March 2026. SFMTA intends to undertake a competitive solicitation to procure a new contract starting April 2026.

Contract Costs and Program Fees

Under the contract, TEGSCO collects fees from the owners of towed vehicles and remits those fees to SFMTA. SFMTA then pays TEGSCO a fixed management fee and reimburses TEGSCO for towing and related services, including a per tow charge paid to tow truck subcontractors. TEGSCO's variable fees are adjusted annually based on the lesser of three percent or the regional Consumer Price Index (CPI). Fees charged to vehicle owners are set by SFMTA.[1] A $52 fee waiver is granted to owners of first-time towed vehicles, and waivers are also available to low-income or homeless residents. In addition, victims of vehicle theft have their towing, administrative, and storage fees waived.

SFMTA leases 556,05 square feet of space at a facility located at 2650 Bayshore Boulevard in Daly City. Under the contract, TEGSCO uses 330,771 square feet for storage and transfer of vehicles, public lien sale auctions, and office space. TEGSCO does not pay rent but pays all utilities, services, and security for the space. SFMTA also rents 450 7th Street for TEGSCO to use as its short-term storage facility.

Tow Volume

Tow volume decreased significantly due to the COVID-19 pandemic in 2020, but has since increased, from 16,122 tows in contract Year 5 (April 2020 through March 2021) to 31,714 tows in contract Year 6 (April 2021 through March 2022). In contract Year 7 (April 2022 to March 2023), volume is projected to increase to approximately 40,390 tows.[2]

Performance

According to SFMTA, TEGSCO has been meeting or exceeding performance measures for the contract. The three key performance measures are timeliness of revenue deposits into SFMTA's account (within 24 hours), tow truck dispatch response times (35 minutes during peak commute hours and 25 minutes during non-peak hours), and customer service wait times (average of seven

[1] Current fees are: (1) Administrative Fee: $284 for first-time tow, $336 for repeat tows, no fee for low-income vehicle owners; (2) Tow Fee: $277, $100 for low-income residents, one-time waiver for homeless residents; (3) Storage Fee: no fee for first four hours, $60 for the first day after four hours, $72 for subsequent days; and (4) Dolly Fee (if applicable) $49.

[2] There were 16,829 tows over the first five months of contract Year 7, or 3,366 tows per month. At that rate, annual tows during contract Year 7 would be 40,390.

minutes). According to SFMTA, revenues are consistently deposited within 24 hours, 93 percent of tows are responded to on time (above the 90 percent target), and the average customer service wait time is two minutes.

FISCAL IMPACT

The proposed seventh amendment would increase the not-to-exceed amount of the TEGSCO contract by $49,000,000, for a total not to exceed $137,200,000. Actual and projected contract expenditures are shown in Exhibit 1 below.

Exhibit 1: Actual and Projected Contract Expenditures

Year	Management Fee[3]	Variable Fee	Total Expenditures
Year 1[4]	$8,704,272	$4,413,678	$13,117,950
Year 2	8,203,839	4,776,759	12,980,598
Year 3	8,449,856	5,441,590	13,891,445
Year 4	8,703,444	5,198,730	13,902,174
Year 5	8,928,568	2,155,762	11,084,330
Year 6	8,515,097	3,880,922	12,396,019
Year 7 (April 2022 – August 2022)	4,237,911	1,989,015	6,226,927
Subtotal – Actual Expenditures	*$55,742,988*	*$27,856,455*	*$83,599,444*
Year 7 (September 2022 – March 2023)	4,944,226	2,883,927	7,828,153
Year 8	9,196,258	5,102,490	14,298,749
Year 9	9,516,451	5,281,078	14,797,529
Year 10	9,801,945	5,450,469	15,252,413
Subtotal – Projected Expenditures	*$33,458,880*	*$18,717,963*	*$52,176,844*
Contingency (7.5% of Projected Variable Fees)	-	1,403,847	1,403,847
Total	**$89,201,868**	**$47,978,266**	**$137,180,134**

Source: SFMTA

Actual and projected tow revenues total approximately $210,606,452 over the 10-year term of the contract. The Management Fee, which covers TEGSCO's fixed costs, was reduced in contract Year 6 due to COVID, however it was restored to its prior level in Year 7. Management and Variable Fees projections are adjusted for inflation and include a 7.5 contingency on each year's Variable Fees.

MTA Towing Program Revenues & Expenses

According to SFMTA, the tow program is a cost-recovery program and funded by tow revenues and the SFMTA operating budget. Because the program is funded by fees, SFMTA cannot make a profit from the tow program. Over the 10-year term of the contract, the projected net cost to SFMTA for the tow program, or costs minus revenues, is approximately $65,845,984, as shown

[3] According to SFMTA, the Management Fee was bid out as a flat fee to maintain a consistent level of service, rather than a negotiated amount based on costs to TEGSCO. Costs include staffing, security, office and network infrastructure, storage lot equipment, repairs, capital improvements, administrative costs, and profit.

[4] The Management Fee in Year 1 includes $720,000 in rent payments for the 7th Street facility paid by TEGSCO and reimbursed by SFMTA because Caltrans, the landlord, was not compliant with Chapter 12B of the City's Administrative Code. TEGSCO, which had previously rented the facility directly from Caltrans, paid eight months of rent until the City Administrator's Office approved the Chapter 12B waiver, allowing SFMTA to assume the lease.

in Exhibit 2 below. Net program costs are funded by SFMTA's general revenues, which include General Fund transfers, state and federal grants, transit fares, and other transportation-related fees.

Exhibit 2: Tow Program Costs and Revenues

Year	TEGSCO Contract[5]	Rent[6]	SFMTA Admin & Enforcement Cost[7]	Total Program Cost	Tow Revenues	Net Program Cost
Year 1 (Actual)	$13,117,950	$1,995,469	$9,247,156	$24,360,575	$20,769,426	$3,591,149
Year 2 (Actual)	12,980,598	2,789,312	9,475,761	25,245,671	22,421,291	2,824,380
Year 3 (Actual)	13,891,445	2,939,396	10,166,840	26,997,681	23,768,374	3,229,308
Year 4 (Actual)	13,902,174	3,039,396	10,545,264	27,486,834	23,083,883	4,402,951
Year 5 (Actual)	11,084,330	3,134,545	11,252,133	25,471,008	8,142,522	17,328,485
Year 6 (Actual)	12,396,019	3,257,017	11,570,196	27,223,232	17,029,944	10,193,288
Year 7 (Projected)	14,055,080	3,398,733	11,882,881	29,336,694	22,801,032	6,535,662
Year 8 (Projected)	14,298,749	3,500,695	11,463,391	29,262,835	23,485,063	5,777,772
Year 9 (Projected)	14,797,529	3,605,716	11,676,563	30,079,808	24,189,615	5,890,193
Year 10 (Projected)	15,252,413	3,713,887	12,021,798	30,988,098	24,915,303	6,072,795
Total	**$135,776,287**	**$31,374,166**	**$109,301,983**	**$276,452,437**	**$210,606,452**	**$65,845,984**

Source: SFMTA

According to a June 2022 memo from SFMTA to the Board of Supervisors, tow revenues consist primarily of administrative fees, towing fees, storage fees, and auction revenues. Revenue shown above are net of waivers provided to first time, low-income vehicle owners, and victims of vehicle theft (estimated at $4.8 million in FY 2022-23), and waivers provided to the Police Department to store vehicles involved in crimes (estimated at $3.6 million in FY 2022-23).

As shown above, program costs consist of the proposed contract management and variable fees, rent for two towing facilities, and SFMTA for program administration and parking enforcement.

POLICY CONSIDERATION

Cost Containment Analysis

In the resolution approving the third amendment to the contract, at the recommendation of the Budget & Legislative Analyst, the Board of Supervisors requested a comprehensive report from SFMTA on the tow program and cost containment strategies (File 21-0175). In a report issued in June 2022, SFMTA analyzed the cost containment strategies of eliminating fee waiver and reduction programs, closing the 7th Street lot, reducing service level requirements, and eliminating the tow program, and determined that all strategies were infeasible for several

[5] Projected TEGSCO contract expenditures do not include the contingency ($1,403,847 from Years 7-10).

[6] Rent in FY 2022-23 includes approximately $1.2 million for the 7th Street facility and $2.3 million for the Bayshore facility.

[7] Administrative costs include SFMTA administrative staff, parking control officers, dispatch staff, overhead, work orders, and credit card processing charges.

reasons. While eliminating fee waivers and reductions[8] could potentially make the program cost-neutral, it would go against policy recommended by the Board of Supervisors[9] and disproportionately impact low-income and homeless residents. Closing the 7th Street lot would bring the Bayshore lot above capacity and increase travel times for tow operators and wait times for Police officers.[10] Reducing service level requirements may increase customer frustration and complaints and impact staff under the collective bargaining agreement. Eliminating the tow program, an extreme option, was considered and dismissed because it would increase traffic congestion, reduce parking availability, and frustrate residents with blocked driveways. SFMTA concluded that continuing the TEGSCO contract through the remainder of the term is the best path forward, as annual escalation is limited to three percent (below the current CPI of 8.3 percent) and TEGSCO has met or exceeded performance targets. According to the Controller's Proposition J analysis, the contract with TEGSCO is 44 – 53 percent less expensive than civil service staff.

SFMTA identified areas for further analysis, including evaluating the types of tows conducted and how each type improves traffic flow, supports residents and businesses, and maintains safety, to determine if adjustments can be made to reduce tow volume. SFMTA also notes that its administrative costs (including staff assigned to the program and their overhead rate) could potentially be lowered, but has not undertaken the analysis that would support those changes or identified ways to do so. SFMTA administrative costs include $5.2 million in direct labor for program administration and parking enforcement and $5.1 million in overhead. SFMTA also did not analyze how the costs of renting the Bayshore and 7th Street facilities compare to the potential costs of purchasing a storage facility.

Policy Options

The SFMTA analysis notes that its towing program costs are high when compared to peer jurisdictions, due to the general cost of living in San Francisco, the staffing demands of running 24/7 towing services for the public, and rent for storage facilities. The report submitted by the SFMTA in June 2022 did not include an analysis of: (a) agency-side administrative and enforcement costs, (2) overhead costs, (3) rental costs, including feasibility of moving operations to City-owned property. Reducing program costs could allow SFMTA to reduce program fees and/or free up SFMTA revenues that currently are used to pay for the towing program's net costs to be used for other transportation programs.

The Board of Supervisors could (A) identify non-transit funding sources for tow program fee waivers that are provided to residents and the Police Department, and/or (B) request SFMTA

[8] According to the MTA memo to the Board of Supervisors, for FY 2022-23, Police-related fee waivers, which include fees waived for victims of vehicle theft as well as storage costs for vehicles involved in criminal events, will total $3.6 million and waivers for first-time, low-income, and unhoused vehicle owners will total $4.8 million.

[9] File 14-1157 was a resolution approved by the Board of Supervisors that urged SFTMA to waive or reduce towing fees for victims of vehicle theft. According to SFMTA, first-time, low-income, and homeless fee waivers were added at the request of Board members.

[10] According to the MTA memo to the Board of Supervisors, Police requests account for 20% of tows, which includes vehicles towed for accidents and expired registration, stolen vehicles, drunk driving, suspended license, and other crimes. As of May 2022, the Police Department stores approximately 800 vehicles in MTA impound facilities at no cost to the Police Department.

complete an analysis of towing program costs that includes: (a) administrative and enforcement costs, (2) overhead costs, and (3) rental costs, including feasibility of moving operations to City-owned property.

Approve the Proposed Resolution

Because the contractor is meetings its performance goals, existing contract costs are likely lower than procuring a new contract, and the proposed resolution provides funding for a previously approved term through March 2026, we recommend approval.

RECOMMENDATIONS

1. Approve the proposed resolution.
2. Request SFMTA to complete an analysis of towing program costs that includes: (1) administrative and enforcement costs, (2) overhead costs, and (3) rental costs, including feasibility of moving operations to City-owned property prior to submitting a new towing services contract to the Board for approval.

Appendix 1: Vehicle Tows by Category, Contract Years 5-7

Category	Year 4 (March 2019 – February 2020)[11]	Year 5 (April 2020 – March 2021)	Year 6 (April 2021 – March 2022)	Year 7 (Projected, April 2022 – March 2023)
Abandoned	1,942	789	1,585	1,394
Accident	901	789	807	502
Arrest/Investigation/Moving Violation	1,172	1,081	1,176	1,286
CHP	0	0	0	0
Construction	1,969	1,560	1,762	2,179
Courtesy-Dpt.	262	207	250	180
Courtesy-Other	0	0	0	0
Courtesy-SFFD	2	4	6	7
Courtesy-SFPD	5	3	5	7
Driveway	6,352	4,055	6,465	7,049
Hazard	921	673	1,180	1,534
Hit & Run	352	379	200	72
Non-Tow	564	0	0	0
Other	32	50	13	26
Other Parking Violations	1,738	348	680	1,186
Owner Request-Tow	131	85	188	65
Owner Request-Service	21	18	15	19
Private Property	0	0	4	2
Relocation	187	104	158	202
Scofflaw/Citations	2,001	71	1,395	1,848
Scofflaw/Citations/Registration	738	3	914	1,442
Scofflaw/No Vehicle ID	35	35	23	38
Scofflaw/Registration	3,044	1,678	2,920	2,057
Scofflaw/Registration/Moving	114	13	21	26
Special Event	1,907	944	1,516	2,755
Stolen Recovery	1,939	2,776	2,935	2,844
Towaway	15,489	185	7,259	13,433
Unlicensed/Suspended License	943	236	186	204
Yellow Zone	2,449	36	51	31
Total	**45,210**	**16,122**	**31,714**	**40,390**

Source: SFMTA

Note: The proposed contract assumes 44,000 tows per year.

[11] Contract Year 4 was from April 2019 through March 2020. However, data shown in this Appendix is for the period from March 2020 through February 2020, as shown in the Budget and Legislative Analyst's previous report to the Board of Supervisors (File 21-0175).